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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT,

Plaintiff,

- against -

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; UNITED
STATES DEPARTMENT OF STATE; and
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES,

Defendants.

No. 21 Civ. 9519 (JLC)

**STIPULATION
AND ORDER**

WHEREAS, on November 17, 2021, International Refugee Assistance Project (“IRAP”) initiated this matter by filing a complaint, Dkt. No. 1 (the “Complaint”), against the U.S. Department of Homeland Security (“DHS”), United States Citizenship and Immigration Services (“USCIS”), and the U.S. Department of State (“State,” with DHS and USCIS, the “Government,” and with IRAP, the “Parties”);

WHEREAS, the Complaint sought to compel USCIS and State to respond to two Freedom of Information Act (“FOIA”) requests—one dated August 20, 2021 addressed to USCIS, *see* Dkt. No. 1-2 (the “USCIS Request”), and one dated August 20, 2021 addressed to State, *see* Dkt. No. 1-3 (the “State Request,” and, together, the “FOIA Requests”);

WHEREAS, the Complaint also challenged, pursuant to the Administrative Procedure Act, 5 U.S.C. § 701 (“APA”), State and DHS’s compliance with 5 U.S.C. § 552(g), which requires the head of each agency to “prepare and make available for public inspection in an electronic format . . . (1) an index of all major information systems of the agency; [and] (2) a description of major information and record locator systems maintained by the agency”;

WHEREAS, USCIS and State thereafter produced certain documents and withheld certain information based on FOIA exemptions and agreements with IRAP in response to the FOIA Requests;

WHEREAS, DHS and State thereafter updated their public listings of major information systems, as reflected on the following webpages—for DHS: <https://www.dhs.gov/publication/dhs-major-information-systems-mis>; and for State: <https://foia.state.gov/Learn/MIS.aspx>; and

WHEREAS, the Parties have agreed to resolve the remaining claims in the case, except for IRAP's anticipated claim for costs and fees against DHS and State, upon the terms and subject to the conditions set forth in this Stipulation and Order;

IT IS HEREBY STIPULATED AND AGREED, by and between IRAP and the Government, and subject to endorsement by the Court, that:

1. As of the date this Stipulation and Order was executed by counsel for the Government, State has confirmed that the following process, as agreed upon by the parties, accurately describes the process by which State identified "major information systems" as defined by the Office of Management and Budget ("OMB"): State queried its Capital Planning and Investment Control information technology portfolio management tool to generate a list of systems aligned under major information technology investments due to their high cost, high risk/impact, or high significance, with a focus on investments that require special management attention. State then cross-referenced this list against a list of systems with Privacy Impact Assessments as a quality control step to ensure that all systems with Privacy Impact Assessments were fully considered for inclusion in the major information systems list. This process generated the list of major information systems according to the criteria set forth in OMB Circular A-130, ensuring that State's major information systems were ultimately listed. Nothing in this paragraph shall be

construed to limit State's discretion to modify the process or criteria it utilizes to identify major information systems, provided that any modifications are consistent with 5 U.S.C. § 552(g).

2. State has confirmed that it intends to update its major information system list on an annual basis and will endeavor to next do so within ninety days of entry of this Stipulation and Order.

3. As of the date this Stipulation and Order was executed by counsel for the Government, DHS has confirmed that the following criteria, as agreed upon by the parties, will be used to identify "major information systems" as defined by the OMB for purposes of fulfilling DHS's obligations under Paragraph 5: all systems that meet the definition of a high-value asset ("HVA") as defined in OMB guidance, particularly OMB M-19-03; all systems that have "high development, operating, or maintenance costs" that are not classified as HVAs, with "high" meaning a cost of ten million or more; and all systems related to the processing of immigration benefits, including evaluating the eligibility/admissibility of petitioners or beneficiaries. Following DHS's implementation of Paragraph 5, nothing in this paragraph shall be construed to limit DHS's discretion to modify the process or criteria it utilizes to identify major information systems, provided that any modifications are consistent with 5 U.S.C. § 552(g).

4. DHS has confirmed that, as of the date this Stipulation and Order was executed by counsel for the Government, the major information systems listed on DHS's major information system webpage includes all HVAs and non-HVAs with high development, operating, or maintenance costs as of September 20, 2022.

5. Within ninety days of entry of this Stipulation and Order, and in accordance with 5 U.S.C. 552(g), DHS shall update its major information system webpage to include: (a) a description of how it identifies major information systems, consistent with the terms of Paragraph

3; (b) all systems related to the processing of immigration benefits, including evaluating the eligibility/admissibility of petitioners or beneficiaries, where all such systems have their own Privacy Impact Assessments; and (c) short descriptions of all of its major information systems, consistent with the substance of the descriptions in the attached Exhibit A.

6. DHS has confirmed that it intends to update its major information system lists on an annual basis and will endeavor to next do so within ninety days of entry of this Stipulation and Order.

7. Upon DHS's satisfaction of Paragraph 5 of this Stipulation, IRAP releases and discharges the United States of America, and the United States of America's agencies, departments, officers, employees, servants, and agents from any claims and causes of action that IRAP asserted, or could have asserted, in this litigation related to the FOIA Requests and DHS and State's compliance with 5 U.S.C. § 552(g), except for any and all claims for attorneys' fees and litigation costs, provided, however, that IRAP shall not seek to recover any fees or costs related to the USCIS Request.

8. The Parties will submit a letter by August 30, 2023, to update the Court on the status of negotiations on resolution of any claim by IRAP for fees and costs or, if negotiations have been exhausted, to propose a briefing schedule on an application for attorneys' fees and costs.

9. This Stipulation and Order shall be governed by, interpreted under, and construed in accordance with federal law.

10. This Stipulation and Order shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

11. If not approved and entered by the Court, this Stipulation and Order shall be null and void, with no force or effect.

12. This Stipulation and Order contains the entire agreement between the Parties, and no other statement, representation, promise, or agreement, oral or otherwise, between the Parties or their counsel shall have any force or effect.

13. This Stipulation and Order may be executed in one or more counterparts, each of which shall be deemed to be one and the same.

Dated: New York, New York
July 26, 2023

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July 26, 2023

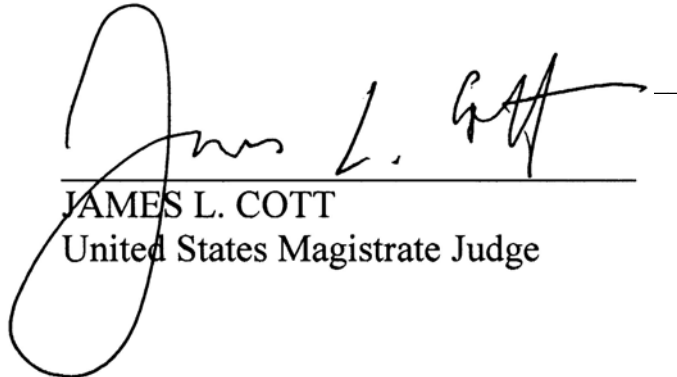
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SO ORDERED:

Dated: New York, New York
July 27, 2023



JAMES L. COTT
United States Magistrate Judge

EXHIBIT A

<u>USCIS System Name</u>	<u>Description</u>
Fraud Detection and National Security Data System (FDNS)	This system is the primary case management system used to record requests and case determinations involving immigration benefit fraud, public safety, and national security concerns.
CLAIMS 3 LAN	USCIS uses the Computer Linked Application Information Management System (CLAIMS 3) and associated systems to support the adjudication functions for immigration filings with the exception of naturalization, intercountry adoption, and certain requests for asylum and refugee status.
Electronic Immigration System (ELIS)	USCIS ELIS serves as an internal electronic case management system for electronically filed benefit request forms and certain paper forms.
Identity Credential and Access Management	An enterprise-wide program that collectively manages identity, credentials, access, and federation, and provides the integrity for internal USCIS, DHS component, and other Government Agency (OGA) users for authentication (AuthN) and authorization (AuthZ) for access to USCIS systems.
Verification Information System	VIS supports USCIS's ability to verify whether a newly hired employee is authorized to work in the United States and the citizenship or immigration status verification of individuals seeking certain government benefits.
Customer Profile Management System	Serves as a person-centric repository of biometric and biographic information provided by applicants and petitioners that have been issued a USCIS card evidencing the granting of an immigration related benefit (i.e., permanent residency, work authorization, or travel documents).
Enterprise Document Management System	A web-based system that allows its users to search, retrieve, and view digitized A-Files and Digitized Receipt Files.
Integrated Card Production System	This system is used to prepare, manage and process benefit card order requests from internal interfacing systems.
Customer Profile Management System	Serves as a person-centric repository of biometric and biographic information provided by applicants and petitioners that have been issued a USCIS card evidencing the granting of an immigration related benefit (i.e., permanent residency, work authorization, or travel documents).
Messaging Capabilities System	MCS provides the capability for personnel to electronically communicate through the medium of email to both internal and external parties through Microsoft Exchange email services and access that functionality through the Outlook application on their workstations or mobile devices.